

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LAWRENCE J. STOCKLER,

Plaintiff,

vs.

Civil Action No. 11-CV-15415
HON. MARK A. GOLDSMITH

REASSURE AMERICA
LIFE INSURANCE CO.,

Defendant.

ORDER OF DISMISSAL

On March 7, 2013, the Court issued an Opinion and Order granting Defendant's motion for summary judgment (Dkt. 38) and denying Plaintiff's motion for summary judgment (Dkt. 27). The Opinion notes that there are two remaining counts in the complaint that were not addressed by the parties' motions: (i) count one, demanding an accounting of payments made by Plaintiff to Defendant as part of the insurance program; and (ii) count six, alleging a violation of Mich. Comp. Laws §§ 750.3 and 750.4, which preserve civil rights and remedies not affected by the Michigan Penal Code. Opinion at 19 (Dkt. 46). The Opinion explains that those counts "do not appear to state a claim for relief," because (i) an accounting is not an independent cause of action, and (ii) Plaintiff has not identified any provision of the Penal Code that would give him a private right of action under the Code. *Id.* at 19-20.

The Opinion states: "Accordingly, Plaintiff is ordered to show cause why count one and count six should not be dismissed for failure to state a claim. Plaintiff's memorandum must be filed on or before March 18, 2013." *Id.* at 20.

However, Plaintiff has not filed any memorandum and the deadline to do so has expired.

Furthermore, Plaintiff has not submitted a motion for extension of time, nor has he provided any explanation for his failure to submit a memorandum. Therefore, the Court concludes that Plaintiff has failed to show cause why the counts should not be dismissed. The Court dismisses counts one and six for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6).

SO ORDERED.

Dated: March 29, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on March 29, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager